

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, in response to the rejection of the claims under the second paragraph of 35 U.S.C. §112, based on the term “hardly soluble”, claims 4, 8-9, 19 and 21-23 have been amended to change “hardly soluble” to the corresponding --slightly soluble--. Please see the attached copy of the United States Pharmacopeia, which in the Table at the top of the right column on page 9 refers to “Slightly soluble”. Also see the attached copy of The Japanese Pharmacopoeia, Fourteenth Edition, English version, which uses the same term in Table 2 on page 2.

Claims 8, 19 and 21-23 have been amended to remove the parenthesis objected to by the Examiner.

Referring to the first paragraph on page 3 of the Office Action, the spelling of “alminomethasilicate” in claims 8, 19 and 21-23 is correct.

The rejection of claims 4 and 9 under the first paragraph of 35 U.S.C. §112 is respectfully traversed.

The Examiner quotes from various portions of MPEP 2163, and then argues that while the specification describes a species of the instantly claimed cellulose derivatives at page 9, it does not describe a sufficient number of species as to convey possession of the entire genus encompassed by cellulose derivatives.

However, MPEP 2163 also indicates that “rejection of an original claim for lack of written description should be rare” (page 2100-169, right column). Applicant notes that the term objected to by the Examiner, “a cellulose derivative” is used in original claim 4; and that claim 9 is identical to claim 4 except that it is dependent on claim 2, also included with original claim 4 which was dependent on any one of claims 1-3.

Although the Examiner states that the specification describes “a species” of the cellulose derivative, the disclosure on page 9 of the specification actually describes three species of the cellulose derivative, i.e. carboxymethyl cellulose sodium, hydroxypropyl cellulose and hydroxymethyl cellulose. These species are also set forth in Tables 1 and 2 on pages 12 and 13 of the specification, and are used in working Examples 1-4.

MPEP 2163 also states that there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed, and that the PTO has the initial burden of “presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims” (page 2100-167, left column; and page 2100-169, right column).

Applicant respectfully submits that the Examiner has not presented any “evidence or reasons” why the art-skilled would not recognize in the disclosure a description of the invention defined by the claims. Rather, the Examiner has merely stated that the specification does not describe a sufficient number of species as to convey possession of the entire genus encompassed by cellulose derivatives. This is not “evidence or reasons” to support the rejection. Furthermore, Applicant takes the position that in view of the species disclosure on page 9 and in Examples 1-4, combined with the generic term “a cellulose derivative”, one of ordinary skill in the art would recognize that Applicant indeed had possession of the claimed invention.

Accordingly, Applicant submits that the rejection of claims 4 and 9 under the first paragraph of 35 U.S.C. §112 as failing to comply with the written description requirement should be withdrawn.

The rejection of claims 1-2, 4-6, 8-9, 11, 13-16, 19 and 21-23 under the second paragraph of 35 U.S.C. §112 is respectfully traversed.

In view of the claim amendments, the only remaining ground for this rejection is the Examiner’s statement that it is unclear what an aqueous cataplasm would encompass.

Applicant is submitting herewith a copy of Dorlands’ Illustrated Medical Dictionary, Twenty-fifth Edition, page 271, setting forth a definition for cataplasm, on the basis of which Applicant submits that the meaning of this term is clear to one of ordinary skill in the art.

The patentability of the presently claimed invention over the disclosures of the references relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Thus, the rejection of claims 1-2, 5-6, 11, 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over Ishida et al. (US ‘382) is respectfully traversed.

The present invention relates to a thin aqueous cataplasm (poultice) prepared by laminating an adhesive layer on a support of a fiber film prepared by heat-fusing a soft plastic resin on a composite fiber prepared by entangling a natural fiber and a soft plastic fiber. The object of the present invention is to provide a thin aqueous cataplasm which can retain moisture-protecting effects on the skin and provide a comfortable feeling in its use.

On the other hand, the invention of Ishida et al. relates to a peel-off-type sheet - pack having a multi-layer moisture-permeable support including a hydrophobic layer and a hydrophilic layer, and a cosmetic. The object of Ishida et al. is to provide an improved peel-off-type pack which does not have a sticky surface, completes the formation of film in a relatively short period of time, is not easily torn in the course of peeling off, and does not leave remains of the film on the surface of the skin (Column 2, lines 30-35).

An aqueous cataplasm used for a medicine and a peel-off-type sheet pack containing a cosmetic are naturally very different in their objects and constitutions.

According to the disclosure of Ishida et al. as indicated by the Examiner, a mixture of a hydrophobic layer such as polyethylene, etc., and a hydrophilic layer such as natural fiber like cotton, etc., may be used. In Example 1 of Ishida et al. a hydrophilic web composed of 40% of polypropylene fibers and 60% rayon fibers is used for a double-layer non-woven fabric.

However a fiber film (support) prepared by heat-fusing a soft plastic resin on a composite fiber prepared by entangling a natural fiber and a soft plastic fiber related to the present invention is not concretely disclosed in this reference.

In addition Ishida et al. disclose “The sheet pack of the present invention has the hydrophobic layer of the multi-layer moisture-permeable support on its surface, which is accordingly not sticky.” (Column 3, lines 15-18, emphasis added). The “surface” obviously means the part not containing the cosmetic and contacting to the open air.

On the other hand, the cataplasm of the present invention has a composite fiber prepared by entangling a natural fiber (hydrophilic) and a soft plastic fiber (hydrophobic) on the surface, meaning the part not containing the base and contacting to the open air.

Thus, the objects, constituents and effects between the present invention and the invention of Ishida et al. are completely different from each other.

For these reasons, Applicant respectfully submits that the rejection of the claims as being obvious over the Ishida et al. reference should be withdrawn.

The rejection of claims 4, 8-9, 13, 15, 19 and 21-23 under 35 U.S.C. §103(a) as being unpatentable over Ishida et al. in view of Misumi et al. (US '899) is respectfully traversed.

The comments set forth above concerning the Ishida et al. reference are equally applicable to this rejection.

Misumi et al. disclose the same base as in the present invention. However, this reference discloses only a gel composition and does not disclose the support of the present invention.

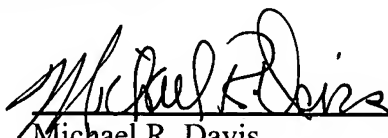
Since Ishida et al. do not disclose the support of the present invention as discussed above, it would be impossible for the skilled person in the art to arrive at the subject matter of the present invention even if Ishida et al. and Misumi et al. are combined.

For these reasons, Applicant takes the position that presently claimed invention is clearly patentable over the applied references.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of objection and rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

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